

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 27322

This is a summary of a decision issued following the June 2012 hearings of the Disciplinary and Ethics Commission (“Commission”) of Certified Financial Planner Board of Standards, Inc. (“CFP Board”). The conduct at issue in this case occurred prior to January 1, 2009. The Rules in effect at that time under the *Code of Ethics and Professional Responsibility* (“Code of Ethics”) were Rules 101 through 705.

I. Issues Presented

Whether a CFP® professional (“Respondent”) violated CFP Board’s *Standards of Professional Conduct* when he: 1) signed a client’s name on account documents without proper authorization; 2) was terminated by his broker-dealer; 3) was issued a Letter of Caution by NASD; and 4) failed to disclose that he was a respondent in an National Association of Securities Dealers (“NASD”) arbitration on two CFP® Certification Renewal Applications (“Renewal Applications”).

II. Findings of Fact Relevant to the Commission’s Decision

In June and August 2005, Respondent’s client filed a customer complaints with his broker-dealer alleging that Respondent recommended unsuitable investments and forged the client’s signature on account forms. In response to the client’s customer complaint, Respondent admitted to his broker-dealer that he signed customer names on various account documents. In August 2005, Respondent’s broker-dealer terminated Respondent. After reviewing the termination, NASD issued Respondent a Letter of Caution. In March 2006, the client filed a Statement of Claim against Respondent and his broker-dealer in NASD Arbitration. In June 2006, Respondent’s broker-dealer settled the case with the client for \$40,000.

In his November 2007 and October 2009 Renewal Applications, Respondent answered “no” to the question: “Since agreeing to CFP Board’s Declaration and Agreement or the last Terms and Conditions of Certification statement, have you been a defendant or respondent in a civil action, which includes, but is not limited to, a lawsuit, arbitration, or mediation, relating to your professional or business conduct?”

III. Commission's Analysis and Conclusions Regarding Rule Violations

- A. *Rule 102 – In the course of professional activities, a CFP Board designee shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation, or knowingly making a false or misleading statement to the client, employer, employee, professional colleague, governmental or other regulatory body or official, or any other person or entity*

The Commission determined that Respondent engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, or knowingly making a false or misleading statement to the client, employer, employee, professional colleague, governmental or other regulatory body or official, or any other person or entity when he signed a client's name on account documents without proper authorization. Respondent represented that these signatures were authentic when he submitted these documents to his firm. In making this determination, the Commission relied on Respondent's admission during his testimony that he had signed clients' names on approximately 20 separate occasions. Thus, Respondent violated *Code of Ethics* Rule 102.

- B. *Rule 201 – A CFP Board designee shall exercise reasonable and prudent professional judgment in providing professional services*

The Commission determined that Respondent failed to exercise reasonable and prudent professional judgment when he signed a client's name on account documents without proper authorization. Thus, Respondent violated *Code of Ethics* Rule 201.

- C. *Rule 406 – A CFP Board designee shall perform professional services with dedication to the lawful objectives of the employer and/or in accordance with the Code of Ethics*

The Commission determined that Respondent failed to perform professional services with dedication to the lawful objectives of the employer and/or in accordance with the *Code of Ethics* when he: 1) signed a client's name on account documents without proper authorization; and 2) was terminated by his employer. Thus, Respondent violated *Code of Ethics* Rule 406.

- D. *Rule 606(a) – A CFP Board designee shall perform services in accordance with applicable laws, rules and regulations of governmental agencies and other applicable authorities*

The Commission determined that Respondent failed to perform services in accordance with applicable laws, rules and regulations of governmental agencies and other applicable authorities when he: 1) signed a client's name on account documents without proper authorization; and 2) was issued a Letter of Caution by NASD. Thus, Respondent violated *Code of Ethics* Rule 606(a).

E. Rule 606(b) – A CFP Board designee shall perform services in accordance with applicable rules, regulations and other established policies of CFP Board

The Commission determined that Respondent failed to perform services in accordance with applicable rules, regulations and other established policies of CFP Board when he violated Rules 102, 201, 406, 606(a), 607, and 612. Thus, Respondent violated *Code of Ethics* Rule 606(b).

F. Rule 607 – A CFP Board designee shall not engage in conduct which reflects adversely on integrity or fitness as a CFP Board designee, upon the marks, or upon the profession

The Commission determined that Respondent engaged in conduct that reflects adversely on his integrity and fitness as a CFP[®] professional, upon the CFP[®] marks, and upon the profession when he: 1) signed a client's name on account documents without proper authorization; 2) was terminated by his broker-dealer; and 3) was issued a Letter of Caution by NASD. Thus, Respondent violated *Code of Ethics* Rule 607.

G. Rule 612 – A CFP Board designee shall comply with all applicable renewal requirements established by CFP Board

The Commission determined that Respondent failed to comply with all applicable renewal requirements established by CFP Board when he failed to disclose that he was a respondent in an NASD arbitration on two Renewal Applications. In making this determination, the Commission relied on Respondent's admission during his testimony that he understood the questions on the renewal form, but erroneously answered the question relating to NASD arbitrations. Thus, Respondent violated *Code of Ethics* Rule 612.

IV. Discipline Imposed

Article 3(a) of CFP Board's *Disciplinary Rules and Procedures* ("Disciplinary Rules") provides grounds for discipline for any act or omission that violates the *Code of Ethics*. The Commission found grounds for discipline under Article 3(a) because Respondent violated Rules 102, 201, 406, 606(b), 606(a), 607 and 612 of the *Code of Ethics*. Article 3(g) of CFP Board's *Disciplinary Rules* provides grounds for discipline for any false or misleading statement made to CFP Board. The Commission found grounds for discipline under Article 3(g) because Respondent failed to disclose that he was a respondent in an NASD arbitration on two Renewal Applications.

Pursuant to Article 4.3 of the *Disciplinary Rules*, the Commission issued a one year and one day suspension. In addition, the Commission ordered Respondent to complete 30 hours of remedial education in topics 74-78 on CFP Board's Principal Topics List. Respondent may not count the 30 hours or remedial education towards the normal 30 hours of continuing education required for renewal every two years.

In arriving at this decision, the Commission considered Anonymous Case Histories ("ACH") 24519, 21589 and 24651. The Commission determined that an upward deviation from the

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sanction in ACHs 24519, 21589 and 24651 was warranted due to the multiple occasions on which Respondent forged client signatures and Respondent's failure to understand the significance or consequence of his actions. Thus, the Commission determined that Respondent should be required to petition the Commission for reinstatement.

While considering the degree of sanction to impose, the Commission did not consider any mitigating factors.

The Commission considered the following aggravating factors:

1. Respondent failed to demonstrate that he understood the significance or consequence of his actions; and
2. Respondent admitted to signing clients' names on multiple occasions.